

Magistrate Judge J. Richard Creatura

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL KELLAR and
GAIL LYNN BURNWORTH,

Defendants.

NO. MJ17- 5127

COMPLAINT for VIOLATION

18 U.S.C. § 2422(b) and 18 U.S.C. § 2251(a)

BEFORE, the Honorable J. Richard Creatura, United States Magistrate Judge,
U. S. Courthouse, Tacoma, Washington.

The undersigned complainant being duly sworn states:

COUNT 1

(Attempted Enticement of a Minor)

In or about July 2017, at Tacoma, within the Western District of Washington, and elsewhere, MICHAEL KELLAR, used a facility and means of interstate and foreign commerce, including the internet and a cellular phone, to knowingly persuade, induce, entice, and coerce CV1 and CV2, individuals who had not yet attained the age of 18 years, to engage in sexual activity for which a person can be criminally charged, to include Rape of a Child in the First Degree in violation of RCW § 9A.44.073, and attempted to do so.

1 All in violation of Title 18, United States Code, Section 2422(b).

2 **COUNT 2**

3 **(Conspiracy to Produce Child Pornography)**

4 Beginning on an exact date unknown and continuing until in or about July 2017, at
5 Tacoma, within the Western District of Washington, and elsewhere, MICHAEL
6 KELLAR, GAIL LYNN BURNWORTH, and others known and unknown, knowingly
7 and intentionally conspired to use, persuade, induce, entice, and coerce a minor to engage
8 in sexually explicit conduct for the purpose of producing a visual depiction of such
9 conduct and transmitting any live visual depiction of such conduct, knowing or having
10 reason to know that such visual depiction would be transported and transmitted using any
11 means or facility of interstate and foreign commerce and such visual depiction was
12 transported and transmitted using any means or facility of interstate and foreign
13 commerce and in and affecting interstate and foreign commerce and such visual depiction
14 was produced using materials that had been mailed, shipped, and transported in interstate
15 and foreign commerce.

16 All in violation of Title 18, United States Code, Section 2251(a) and (e).

17 And the Complainant states that this Complaint is based on the following
18 information:

19 I, Kyle McNeal, being first duly sworn on oath, depose and say:

20 **I. INTRODUCTION**

21 1. I am a Special Agent with the Federal Bureau of Investigation (FBI) and
22 have been for approximately six years. As part of my duties, I investigate criminal
23 violations relating to child exploitation and child pornography, including violations
24 pertaining to the illegal production, distribution, receipt, and possession of child
25 pornography and material involving the sexual exploitation of minors in violation of 18
26 U.S.C. §§ 2251, 2252, and 2252A. I am a graduate of the FBI Academy and have
27 received further specialized training in investigating child pornography and child
28 exploitation crimes. I have also had the opportunity to observe and review examples of

1 child pornography (as defined in 18 U.S.C. § 2256(8)). At this time, I have been
2 assigned as the South Sound Child Exploitation Task Force (SSCETF) Coordinator and
3 work with other federal, state, and local law enforcement personnel in the investigation
4 and prosecution of crimes involving the exploitation of minors.

5 2. The facts set forth in this Complaint are based on my own personal
6 knowledge; knowledge obtained from other individuals during my participation in this
7 investigation, including other law enforcement officers; interviews of cooperating
8 witnesses; review of documents and records related to this investigation; communications
9 with others who have personal knowledge of the events and circumstances described
10 herein; and information gained through my training and experience.

11 3. Because this Complaint is submitted for the limited purpose of establishing
12 probable cause, it does not set forth each and every fact that I or others have learned
13 during the course of this investigation. I have set forth only the facts that I believe are
14 relevant to the determination of probable cause to believe that MICHAEL KELLAR
15 committed the offense of Attempted Enticement of a Minor in violation of 18 U.S.C.
16 § 2422(b) and that both KELLAR and GAIL LYNN BURNWORTH conspired to
17 produce child pornography in violation of 18 U.S.C. § 2251(a), (e).

18 II. SUMMARY OF PROBABLE CAUSE

19 4. This investigation originated with the San Jose Police Department, Silicon
20 Valley ICAC Task Force. I reviewed the reports of Det. Nick Jourdenais and have
21 summarized his investigation below:

22 a. On July 31, 2017, Det. Jourdenais was dispatched to the San Jose
23 Minetta International Airport. Upon arriving at the airport, he learned that a reporting
24 witness (RW) approached police about an incident that occurred on her flight from
25 Seattle, Washington, to San Jose. RW saw an adult male seated in front of her using a
26 cell phone to text another person. RW became concerned when the messages, which RW
27 could clearly read, appeared to broach the subject of child molestation. RW used her cell
28 phone to take pictures of the suspect's cell phone and his conversation. RW showed the
pictures to the police and emailed copies to Det. Jourdenais.

1 b. Det. Jourdenais reviewed those photos, which showed a
2 conversation between the suspect and someone named "Gail." The suspect and Gail were
3 discussing plans for Gail to video herself pulling down an unknown child's underwear,
4 rubbing the child's genitalia, and sending the video to the suspect. The screen shots also
5 show Gail saying that she needed to wait for "the parents" to be away, and that she had
6 the kids on Sunday.

7 c. Det. Jourdenais encountered the suspect, later identified as
8 MICHAEL KELLAR at the airport. After a brief discussion and explanation of RW's
9 concerns, KELLAR agreed to hand over his cell phone and to accompany officers to the
10 San Jose Police Department for an interview. Police transported KELLAR in an
11 unmarked police car. KELLAR was not handcuffed and was told that he was not under
12 arrest. In a recorded interview KELLAR, provided the following information.

13 d. KELLAR said he had been traveling from Seattle to San Jose for
14 work. He explained he lived in Tacoma, Washington, and was divorced with two
15 children. KELLAR explained that he wanted to be as helpful as possible. KELLAR said
16 that he could understand RW's concern because the person with whom he was texting
17 was very kinky and the two of them were discussing "scat" videos. In response to the
18 questions about the mention of children, KELLAR explained that Gail lived with K.B.
19 and his wife, and that K.B. had several children, two of whom were "young children."

20 e. KELLAR said that the only cell phone that he had on his person was
21 his personal cell phone and that it was locked with a passcode. KELLAR agreed to let
22 the police examine his phone and provided the password.

23 f. Det. Jourdenais used a forensic cell phone analysis tool to analyze
24 KELLAR's phone. Included in the forensic report were deleted messages between
25 KELLAR and an unknown cell phone number. At one point during the text exchange,
26 KELLAR refers to the other person as "Gail." Among KELLAR's contacts was an
27 individual named Gail McLean, with an address in Tacoma, Washington, and the phone
28 number 253 441 6440. Among the things requested of Gail were videos of Gail engaged
in bestiality, fetish behavior involving feces, and "kid videos."

 g. Based on KELLAR's text conversation as well as his statement, Det.
Jourdenais concluded that KELLAR and Gail, later identified as GAIL BURNWORTH
xx/xx/1966, were collaborating to molest children, as well as film the assault. At that
point, KELLAR was arrested and taken into custody.

 h. Det. Jourdenais contacted Det. Conine from the Seattle Internet
Crimes Against Children Task Force for assistance. Det. Conine sent Det. Jourdenais an
email that included a picture from GAIL BURNWORTH's driver's license, Washington

1 DL # BURNXXXXXXXXX. After being shown this photo, KELLAR identified GAIL
2 BURNWORTH as the person with whom he had been texting.

3 i. KELLAR's interview continued after he was taken into custody and
4 advised of his constitutional rights. Among other things, KELLAR acknowledged being
5 aware that BURNWORTH lived with three minors, two of whom he described as
6 "young," and that he likely had a sexual interest in children. However, when confronted
7 about the specific references to abusing these children, he said he was engaged in fantasy.

8 5. I have reviewed a portion of the text conversation referenced by Det.
9 Jourdenais that took place in late July of 2017. These excerpts reflect, among other
10 things, a conversation between KELLAR and BURNWORTH in which KELLAR and
11 BURNWORTH discuss engaging in sexual acts with a boy and a girl, believed to be CV1
12 and CV2. KELLAR discusses BURNWORTH performing sex acts on both children and
13 her assisting him in anally raping each child. The two also discuss giving the children
14 Benadryl so they will be unconscious during the abuse. It appears that this exchange is
15 what KELLAR explained to Det. Jourdenais was simply fantasy.

16 6. As noted above, the case was referred to Det. Conine with the Seattle
17 Police Department. I have reviewed a search warrant affidavit prepared by Det. Conine
18 and provide a summary of his investigation below:

19 a. Det. Conine received the case referral from the San Jose Police
20 Department on July 31, 2017. Det. Conine reviewed the photographs of the text
21 conversation between KELLAR and BURNWORTH.

22 b. In one of the photographs taken by RW, BURNWORTH says,
23 "Honey I went ... by taking pics... the kids and th.. when they fall a... sleep I well I
24 will... take the little Girl and then I will hold out her panties and spread her legs and take
25 pictures of her little p**** and then I'll take my finger and gently rub your p**** Very
26 Jack Knight and then I..." (Part of the message was blocked by KELLAR's head.)

27 c. Another photograph depicts an exchange were KELLAR asks,
28 "...you can do this or are you just saying this???" Gail then responds, "No I think I can-
do it if I don't have parents over my shoulder or worried about who's going to walk in on
me And then on Sunday I will have the kids no parents just kids."

7. On July 31, 2017, Det. Conine obtained a search warrant for GAIL LYNN

1 BURNWORTH and her Tacoma, Washington, residence. Det. Conine also obtained a
2 search warrant for MICHAEL KELLAR's Tacoma, Washington, home. Law
3 enforcement arrived at BURNWORTH's home, which she shares with K.B., A.B., and
4 three minors. Upon arriving at the home, law enforcement learned from the other
5 occupants that BURNWORTH was housesitting at another home just a few blocks away.
6 Upon identifying this home, Det. Conine and I traveled there to interview
7 BURNWORTH.

8 8. Upon arriving at this residence, GAIL BURNWORTH opened the door and
9 allowed us to enter. She was concerned, and we advised her that a search warrant was
10 being executed at her residence and that we wished to speak with her about the
11 investigation. BURNWORTH had a cellphone in her hand when she came to the door
12 and as we stepped into the home, she walked over to a couch and sat down next to an
13 open laptop computer, which she said was hers. We advised BURNWORTH that
14 because we were inside a home that did not belong to her, we would prefer to interview
15 her outside in an unmarked van. She agreed to go outside and speak with us.

16 9. BURNWORTH's cellphone and laptop computer were seized as evidence.
17 Though she stated she was staying at the home for several days and had other property
18 inside, none of her other belongings, nor any part of the residence were searched by law
19 enforcement.

20 10. Det. Conine and I escorted BURNWORTH to an unmarked police van and
21 began the interview, which was audio and video recorded. Though she was advised that
22 she was not under arrest and was not placed in handcuffs, out of an abundance of caution,
23 Det. Conine advised BURNWORTH of her *Miranda* rights, which she said she
24 understood.

25 11. During the interview, BURNWORTH admitted that she knew MICHAEL
26 KELLAR and that she had met him in person on multiple occasions. BURNWORTH said
27 that she met KELLAR on match.com about a year ago and that since that time, she has
28 visited his home several times. She confirmed that the two engaged in sexual intercourse

1 and fetish behavior involving feces. She said that several of these encounters were video
2 recorded.

3 12. After some discussion, BURNWORTH acknowledged that she had a sexual
4 interest in children and that she is attracted to both boys and girls. She said her
5 preference was prepubescent children. BURNWORTH stated that she produced several
6 videos of CV1 in which CV1 was nude. She said that she recorded CV1 when she knew
7 CV1 would be nude or changing in order to avoid drawing attention to her activities. She
8 said she never tried to perform any sexual acts on CV1.

9 13. BURNWORTH also stated that she sexually assaulted and produced
10 approximately ten depictions of child pornography involving CV2. She said that on
11 multiple occasions, she would bathe CV2 and record those interactions with her cell
12 phone. She said that she also recorded herself touching CV2's chest and digitally
13 penetrating CV2's vagina and anus.

14 14. BURNWORTH estimated she created as many as fifteen to twenty
15 depictions of CV1 and CV2 in total. She said that after producing these images and
16 videos, she sent them to KELLAR via email. BURNWORTH then deleted the files per
17 the direction of KELLAR.

18 15. BURNWORTH acknowledged that she had a discussion with KELLAR in
19 which she was arranging a time for KELLAR to have a sexual encounter with CV1 and
20 CV2. Initially, BURNWORTH stated that she would not have sex with the children.
21 When asked if she would touch the children and participate in the encounter, however,
22 BURNWORTH said, "probably." When asked if she would have taken pictures or
23 videos of the encounter, BURNWORTH also said, "probably." BURNWORTH advised
24 that KELLAR ultimately backed out on the arrangement before the appointed time,
25 telling her, "Well, I'm not coming, because I know you won't go through with this."
26 BURNWORTH stated that she did not even have access to CV1 and CV2 at the time she
27 and KELLAR planned the encounter.
28

1 16. Despite her initial denial, BURNWORTH ultimately admitted that had the
 2 opportunity presented itself, she would have allowed KELLAR to have sexual intercourse
 3 with CV1 and that doing so may have required drugging her.

4 17. As noted above, law enforcement seized BURNWORTH's cell phone upon
 5 encountering her. A search of that phone revealed hundreds of text communications
 6 between KELLAR and BURNWORTH, including the conversation described above that
 7 Det. Jourdenais found on KELLAR's phone. I have copied below an excerpt of the
 8 messages recovered from BURNWORTH's phone, which show KELLAR and
 9 BURNWORTH formulating a plan to sexually exploit two children and for
 10 BURNWORTH to take photos of the abuse. The excerpt also shows the two formulate a
 11 plan to drug the children so that KELLAR can rape them. In the messages that follow,
 12 messages from KELLAR appear with an "M," and messages from BURNWORTH
 13 appear with a "G."

14 M - 14470 - 7/28/2017 - So who is all there at the house?

15 G - 14471 - 7/28/2017 - Everyone except my ex husband the grandparents brought
 16 the kids back very early this morning

17 M - 14472 - 7/28/2017 - So the mother is home?

18 M - 14473 - 7/28/2017 - Anyway of getting some pics?

19 G - 14474 - 7/28/2017 - Yes the mother's home

20 M - 14475 - 7/28/2017 - Well anyway of getting some pics?

21 G - 14476 - 7/28/2017 - I can try okay

22 M - 14477 - 7/28/2017 - Thanks

23 M - 14478 - 7/28/2017 - BTW I love watching you eat shit 🍌baby! It really turns
 24 me on! 😊Thank you so much!!! 😊

25 G - 14479 - 7/28/2017 - You're welcome but better ones will come OK

26 M - 14480 - 7/28/2017 - That would be GREAT baby! 🍌

27 M - 14481 - 7/28/2017 - Now get me some pics 🍌
 28

1 M - 14482 - 7/28/2017 - Pics baby??? Maybe some panty shots???

2 M - 14483 - 7/28/2017 - If so wrestling with her and pulling them to the side?

3 M - 14484 - 7/28/2017 - So no pics 😊

4 G - 14485 - 7/28/2017 - I know right now but they're gonna come over on Sunday
5 and stay with me for the day Camera man to have something planned and
6 [REDACTED] asked me if they could come and stay with me while they go do
7 what they're doing and I said yes

8 G - 14486 - 7/28/2017 - Nomad to say no not right now sorry

9 M - 14487 - 7/28/2017 - What?

10 M - 14488 - 7/28/2017 - Nothing

11 M - 14489 - 7/28/2017 - No one pic?

12 G - 14490 - 7/28/2017 - Honey I'm trying 2 pac and I'm trying to get out of here
13 but if you want pictures of the kids I will do my very best OK

14 G - 14491 - 7/28/2017 - Sweet I'll have a kids on Sunday at Kerry is no adults just
15 me and the kids

16 M - 14492 - 7/28/2017 - Well where are the pics???

17 G - 14493 - 7/28/2017 - I am sorry I layed my phone down I am here

18 G - 14494 - 7/28/2017 - I seen that you called

19 M - 14495 - 7/28/2017 - Yes I did. Where are the pics???

20 G - 14496 - 7/28/2017 - I have left the house and I well have the kids on Sunday

21 G - 14497 - 7/28/2017 - And you can have all the pics you want

22 M - 14498 - 7/28/2017 - 😊

23 M - 14499 - 7/28/2017 - So what does that mean? Tell me what you are going to
24 do with taking the pics baby?

25 G - 14500 - 7/28/2017 - Honey you well get pictures I promise and you well get a
26 lot of the videos as well

27 M - 14501 - 7/28/2017 - Tell me what kind of pics you'll take for me angel?
28

1 M - 14502 - 7/28/2017 - Well???

2 G - 14503 - 7/28/2017 - Honey I well start by taking pics of the kids and then
3 when they fall a sleep I well I will take the little Girl and then I will hold out her
4 panties and spread her legs and take pictures of her little p**** and then I'll take
5 my finger and gently rub your p**** Very Jack Knight and then I will take my
6 Finger and stick it In her p**** and slowly Robert in-and-out and then I will take
7 her in turnover and Annabelle open upper cheeks he could see her a***** and
8 then I will stick my finger in her a** I gently rub it and then stick my finger in-
9 and-out of it

10 G - 14504 - 7/28/2017 - And then I'll take the boy and I pull down his pants And
11 stroke his d*** until its heart and then I will put my mouth on his d*** I'm very
12 gently rub my mouth on it and then I will turn him over its bright his butt cheeks
13 apart and show you his a***** I will rub his a***** and I will take My finger
14 and gently put it in-and-out of his Butthole

15 M - 14505 - 7/28/2017 - Do you really think you can do this or are you just saying
16 this???

17 G - 14506 - 7/28/2017 - No I think I can-do it if I don't have parents over my
18 shoulder or worried about who's going to walk in on me

19 G - 14507 - 7/28/2017 - And then on Sunday I will have the kids no parents just
20 kids

21 M - 14508 - 7/28/2017 - You'll have to give them lots of Benadryl

22 G - 14509 - 7/28/2017 - Honey I know

23 M - 14510 - 7/28/2017 - Do you think I could fuck them?

24 M - 14511 - 7/28/2017 - Well?

25 M - 14512 - 7/28/2017 - I take that as a no???

26 G - 14513 - 7/28/2017 - No honey I am sorry but know

27 M - 14514 - 7/28/2017 - What?
28

1 G - 14515 - 7/28/2017 - you ask me if I could f*** the kids I don't think I could
2 bring myself to do that I'm sorry
3 M - 14516 - 7/28/2017 - No me
4 M - 14517 - 7/28/2017 - I thought you said you would suck his little dick and eat
5 her pussy?
6 G - 14518 - 7/28/2017 - Yes honey I well do that but I do not think I can have sex
7 with them
8 G - 14519 - 7/28/2017 - Sweetheart their 5 in 7
9 G - 14520 - 7/28/2017 - Honey is that something you would like to do
10 G - 14521 - 7/28/2017 - Is f***** the kids
11 M - 14522 - 7/28/2017 - So you'll suck his little dick and eat her little pussy?
12 G - 14523 - 7/28/2017 - Yes
13 M - 14524 - 7/28/2017 - Well isn't that sex?
14 G - 14525 - 7/28/2017 - Yes oral sex
15 M - 14526 - 7/28/2017 - So will you do this with me there if you can get them
16 knocked out with Benadryl?
17 G - 14527 - 7/28/2017 - Yes I well
18 M - 14528 - 7/28/2017 - Will you guide my dick in their buttoholes?
19 G - 14529 - 7/28/2017 - Did you wanna come here this weekend You can If you
20 would like to
21 G - 14530 - 7/28/2017 - Yes
22 M - 14531 - 7/28/2017 - You will really do this baby???
23 G - 14532 - 7/28/2017 - Yes
24 M - 14533 - 7/28/2017 - Why?
25 G - 14534 - 7/28/2017 - Because I know this is something that you would really
26 like to do-and I would love to do with you
27 M - 14535 - 7/28/2017 - Would you really? Sometimes I think you just do this for
28 me!

1 G - 14536 - 7/28/2017 - I'm doing it because I want to and I know it's a big party
2 your fantasies

3 G - 14537 - 7/28/2017 - Sorry I meant to say big part not party

4 G - 14538 - 7/28/2017 - Sweetheart are you working on your way home

5 M - 14539 - 7/28/2017 - Do you think you can knock them out enough with the
6 Benadryl?

7 G - 14540 - 7/28/2017 - I don't know what we can sure give it a big try

8 M - 14541 - 7/28/2017 - Only if you think it will be safe!

9 M - 14542 - 7/28/2017 - I'd love to butt Fuck her and pull it out with shit on my
10 dick and have you suck it clean while I was cumming!!!

11 /////

12 M - 14747 - 7/31/2017 - Do you have the kids

13 M - 14748 - 7/31/2017 - Will I get all the videos today?

14 G - 14749 - 7/31/2017 - Yes I do

15 G - 14750 - 7/31/2017 - I am going to have them until Tuesday night

16 M - 14751 - 7/31/2017 - Can you take some pics of them right now for me?

17 G - 14752 - 7/31/2017 - Not right now I can't their mother is here bringing me
18 more clothes But in a little while I can okay

19 M - 14753 - 7/31/2017 - When

20 M - 14754 - 7/31/2017 - Can I get all the videos today?

21 G - 14755 - 7/31/2017 - Yes you can have videos today

22 G - 14756 - 7/31/2017 - After she leaves I will start doing videos for you OK

23 /////

24 M - 14760 - 7/31/2017 - Can I have the following videos today baby: Dog shit
25 eating videos Dog sucking videos Kids videos

26 M - 14761 - 7/31/2017 - Maybe you can take the dogs outside when she leaves and
27 video then shitting. Then bring it in the house and make the dog shit eating
28 videos?

1 M - 14762 - 7/31/2017 - Then some of the kids in their underwear?

2 G - 14763 - 7/31/2017 - Okay

3 G - 14764 - 7/31/2017 - But she still here

4 G - 14765 - 7/31/2017 - I will let you know when she leaves OK

5 M - 14766 - 7/31/2017 - I'm hoping you are going to make all my videos today
6 baby?

7 G - 14767 - 7/31/2017 - I well make videos of you today☺

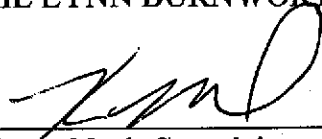
8 M - 14768 - 7/31/2017 - And tonight too?

9 M - 14769 - 7/31/2017 - Do you have Benadryl?

10 G - 14770 - 7/31/2017 -Yes I do have Benadryl

11 18. CV1 and CV2 are both children under the age of twelve. KELLAR is more
12 than twenty-four months older than both CV1 and CV2. Were KELLAR to have
13 engaged in sexual intercourse with either, he would be in violation of RCW 9A.44.073,
14 Rape of a Child in the First Degree.

15 19. Based on the above facts, I respectfully submit that there is probable cause
16 to believe that MICHAEL KELLAR and GAIL LYNN BURNWORTH committed the
17 offenses charged in this Complaint.

18 
19 Kyle McNeal, Complainant
20 Special Agent,
21 Federal Bureau of Investigation

22 Based on the Complaint and Affidavit sworn to before me, and subscribed in my
23 presence, the Court hereby finds that there is probable cause to believe the Defendant
24 committed the offense(s) set forth in the Complaint.

25 Dated this 4th day of August, 2017.

26 
27 J. RICHARD CREATURA
28 United States Magistrate Judge